

MINUTES OF THE MEETING OF THE JUDICIARY COMMITTEE  
EXECUTIVE SESSION  
January 16, 1981

The meeting of the Executive Session of the House Judiciary Committee was called to order at 8:00 a.m. by Chairman Kerry Keyser, presiding. All committee members were present except Rep. Huennekens, who was excused and Rep. Sheldon, who was absent. Jim Lear, Legislative Council, was present.

HOUSE BILL 71 REP. KEEDY moved do pass. KEEDY noted on page 3 of the bill, line 20, thirty days has been changed to ninety days, stating the public body's decision might not come into effect until after the current thirty days. This would change the circumstances where a challenge can be made with ample protection.

REP. BROWN inquired if the notice in the paper complies with the new provision. REP. KEEDY stated yes.

REP. ANDERSON inquired if there would be a possibility that a person could sue for not having proper notice of the meeting. REP. KEEDY replied as long as it was in the paper it was announced to the public.

REP. KEEDY moved that page 3, line 20 be changed from the proposed ninety days back to the thirty days. All were in favor of the motion.

REP. KEEDY noted the spokesman for the MEA felt a written notice be required to notify individuals. If notice were given to individuals KEEDY would not have any serious objection to that being added to the bill. A presiding officer could not discuss a person without that person having knowledge the meeting would pertain to him.

REP. EUDAILY stated school board meetings are public meetings. If a person attends a meeting and addresses the committee on a particular teacher, how would this fit into the law? The board would have no chance of notifying the teacher before hand. REP. KEEDY spoke of a bill in the Senate which was similar to House Bill 71. KEEDY thinks when the two bills meet it will help eliminate that situation. REP. EUDAILY stated if something happened to the other bill along the way, where would that leave this bill. KEEDY responded with whatever the committee passed here. REP. MATSKO noted just in case the other bill does go down it would be appropriate to amend the second line to read any person who is "scheduled to be".

REP. ANDERSON questioned the chair if there was any way to keep this bill in committee until the other bill makes its way over to the committee. That way this committee would have the opportunity to piece the two together. CHAIRMAN KEYSER noted the committee could keep the bill for awhile. REP. KEEDY stated he didn't feel the Senate bill has been introduced yet.

REP. KEEDY moved page 1 line 15 following "meeting" to insert "in addition, reasonable notice shall be delivered to any individual

who is scheduled to be the subject of discussion or action at any regular or special meeting." The amendment passed unanimously.

REP. KEEDY moved on page 2, line 3, after "the" insert "presiding officer" and strike "body".

REP. IVERSON did not like the amendment, stating the meeting can still only be closed at the request of the individual. It does not provide for the body or presiding officer to close it at their discretion. REP. MATSKO stated it might work easier if the presiding officer could request the meeting be closed and the body would decide it.

REP. DAILY inquired if the committee could offer an amendment to say the presiding officer or the vote of the body.

REP. KEEDY stated this bill is for all organizations and not just school boards. What the bill intends to do is to get a meeting closed at the request of an individual. Once that is done it is the board's obligation to come to a decision of whether it should be closed. REP. IVERSON stated the only way a meeting can be closed is at the request of the individual. That is not practical.

REP. MATSKO stated he doesn't see how changing back from body to officer how it can be done if the individual has to request it closed before hand.

REP. CONN stated she did not see when there would be a time when the people in the meeting would want to hold the meeting private and not the individual. REP. YARDLEY replied there are times at a public meeting where members would be less likely to vote on an issue because it is public. IVERSON stated he could think of several times where this would apply; in example, law suits, or a person is accused of something really bad and it turns out the person was not involved.

REP. SEIFERT asked if there were any instances of abuse with the present open law in the past two years. REP. KEEDY noted that it happens all the time. There was a case in the Helena Valley where the school board dismissed a tenured teacher. The school board had to reinstate the teacher because of the present law. SEIFERT asked if by changing the law that would really change the problem. KEEDY stated yes.

REP. BROWN offered a substitute amendment on page 1, subsection 2, lines 24 through 25 reinstating the original language. BROWN felt this would clear up the problems agencies are presently having.

REP. DAILY noted the individual would have the right to ask the

presiding officer to close the meeting. REP. KEEDY replied the meeting would be closed only at the request of the individual but by the decision of the body.

The substitute motion of REP. BROWN passed.

REP. TEAGUE moved to amend page 2, line 3, following "presiding officer" add "or body". TEAGUE stated he could see where the presiding officer could be hostile to an individual. Another member could make a motion so the majority would make the decision. IVERSON felt as an attempt of neatness the amendment should be left out. HANNAH was in favor of the motion. It makes it clear for an individual to go to the entire body.

REP. YARDLEY stated the entire body is responsible for what information is in the closed meeting. TEAGUE stated minutes are to be kept at a closed meeting.

REP. TEAGUE's amendment passed with EUDAILY and BROWN voting against the amendment.

REP. KEEDY moved to amend page 3, line 6 following "(e)" to read "unless the presiding officer had determined that the meeting should be closed under 2-3-203(2)". The amendment passed unanimously.

REP. KEEDY moved to amend page 3, line 13, following "all proposals" and following line 13 strike "discussed" inserting "motions made".

REP. EUDAILY inquired if "actions made" was the same as the motion. YARDLEY replied not necessarily so.

REP. KEEDY explained subsection 3. Public bodies vary quite a bit. The public should always have the right to know. After a brief discussion, REP. BROWN offered a substitute motion for page 3, lines 13 through 15, striking lines 13 through 15 in their entirety. BROWN noted the reason for the amendment was that all bodies are required to keep confidential minutes of a closed session. It may assist some bodies. The amendment of REP. BROWN passed with REP. ANDERSON and REP. KEEDY voting against it.

REP. SEIFERT moved House Bill 71 do not pass. REP. MCLANE seconded the motion.

REP. YARDLEY disagreed with the motion stating the notice provision has to be given. REP. BROWN also opposed the motion specifying the notice provision and the MEA amendment are important to the bill. REP. ANDERSON opposed the motion stating this could help clear up the open meeting act. Hopefully the bill from the Senate and this bill can be brought together. REP. SEIFERT withdrew the motion because of the notice provision.

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REP. EUDAILY moved to amend line 20, page 2, inserting "except as provided in subsection (3)".

REP. KEEDY offered a substitute motion on page 3, line 11, following "viewed" insert "only".

REP. EUDAILY inquired if that amendment meant board members could not view the minutes. KEEDY stated that was not the intention of the amendment. The substitute motion passed with CHAIRMAN KEYSER, REP. MATSKO and REP. EUDAILY voting no.

Rep. EUDAILY withdrew his prior motion.

REP. ANDERSON moved House Bill 71 be tabled. The motion passed unanimously.

REP. YARDLEY requested that a draft be prepared with amendments inserted.

HOUSE BILL 8 The subcommittee's recommendations were passed out to committee members (EXHIBIT 1). REP. EUDAILY noted some of the language of House Bill 4 was incorporated into House Bill 8. The subcommittee recommends House Bill 4 be tabled. House Bill 8 was moved by EUDAILY do pass as amended. The vote was unanimous to do pass as amended.

REP. YARDLEY moved the statement of intent be part of the bill, noting the Interim Committee on Corrections Policy and Facility Needs wrote the statement. All were in favor of the statement of intent to be included with the bill.

HOUSE BILL 5 The subcommittee recommended do not pass. Discussion on House Bill 5 was decided to be held at a later executive session.

HOUSE BILL 6 REP. KEEDY explained the proposed amendments of the subcommittee. JIM LEAR told committee members they tried to clean up the language with the proposed amendments but it does not cover all the bases. REP. EUDAILY moved do pass as amended. The motion passed unanimously.

HOUSE BILL 9 REP. EUDAILY moved do pass as amended. REP. IVERSON noted when CURT CHISHOLM spoke to the subcommittee the "walls of the prison" were mentioned. Actually walls do not surround the entire prison facilities. This amendment was based on the description of the prison lands by the Department of Institutions. The motion of do pass as amended passed unanimously.

HOUSE BILLS 12, 20, 99 and 110 have been included in the rework of House Bill 10. It was moved by REP. EUDAILY that House Bills 12, 20, and 99 be tabled. If House Bill 10 did not pass the committee would have the option of reviving House Bills 12, 20 and 99. The motion passed unanimously.

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HOUSE BILL 110 REP. EUDAILY moved do pass as amended. The amendments were read to the committee members. The motion passed with REP. YARDLEY voting against the motion.

HOUSE BILL 10 The subcommittee felt they still had some work to do on this bill. House bill 10 will be discussed at another executive session.

The minutes of the subcommittee's January 13 and January 15, 1981 meetings were given to the committee. EXHIBIT 2 and 3.

The meeting was adjourned at 10:55 a.m.

  
KERRY KEYSER, CHAIRMAN

mr

REPORT OF THE SUB COMMITTEE/JUDICIARY COMMITTEE  
HOUSE BILLS 4, 5, 6, 8, 9, 10, 12, 20, 99, 110  
January 15, 1981

The sub committee met on January 13, 14, and 15 to make recommendations on the sentencing bills. Those in attendance were REP EUDAILLY, CHAIRMAN, REP IVERSON, REP KEEDY, REP MATSKO and JIM LEAR, Legal Counsel. REP HUENNEKENS was excused from the meetings.

HOUSE BILL 4. The sub committee recommended to incorporate House Bill 4 with House Bill 8. See Exhibit 1.

HOUSE BILL 5. The sub committee recommended a Do Not Pass on House Bill 5, after extended discussion.

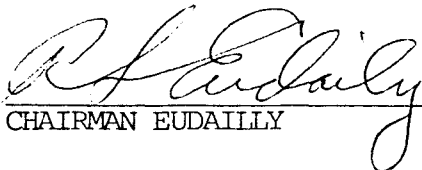
HOUSE BILL 6. The sub committee recommended a Do Pass on House Bill 6 as amended. See Exhibit 2.

HOUSE BILL 8. The sub committee recommended a Do Pass on House Bill 8 with the inclusion of House Bill 4. See Exhibit 1.

HOUSE BILL 9. The sub committee recommended a Do Pass on House Bill 9 as amended. See Exhibit 3.

HOUSE BILL 10. The sub committee recommended a Do Pass on House Bill 10 as amended. See Exhibit 4. There was no vote taken on this action. The sub committee recommends CHAIRMAN KEYSER place this bill on the House floor as soon as possible. There was no vote taken on this action.

HOUSE BILLS 12, 20, 99, 110. The sub committee recommends these bills be held in committee until further action is taken on House Bill 10. See Exhibit 5 for House Bill 110.

  
CHAIRMAN EUDAILLY

dl

EXHIBIT 1

AMENDMENTS TO HB 8 RECOMMENDED BY SENTENCING SUBCOMMITTEE

1. Page 2, lines 1 through 3.  
Following: "53-30-105" on line 1  
Strike: balance of line 1 through line 3

EXHIBIT 2

PROPOSED AMENDMENTS TO HOUSE BILL 6 RECOMMENDED BY SENTENCING SUBCOMMITTEE

1. Page 1, line 16.  
Following: "sentenced"  
Insert: "or is subject to being sentenced"
2. Page 1, line 18.  
Following: "imposition"  
Insert: "of sentence, whether or not executed;"
3. Page 1, line 19.  
Following: "state, the"  
Insert: "county attorney or"
4. Page 4, line 3.  
Following: "disposition"  
Strike: "reviewed"
5. Page 4, line 4.  
Following: "defendant,"  
Strike: "the prosecuting attorney, and"
6. Page 4, line 5.  
Following: "confined"  
Insert: ", and the prosecuting attorney"



Exhibit 3  
AMENDMENTS TO HB 9 RECOMMENDED BY SENTENCING SUBCOMMITTEE

1. Page 1, line 21 through line 22.  
Following: "assigned" on line 21  
Strike: remainder of line 21 through "prison" on line 22  
Insert: "to maximum, close, and medium I security classifications"
2. Page 1, line 23 through 24.  
Following: "those" on line 23  
Strike: remainder of line 23 through "prison" on line 24  
Insert: "classified as medium II and minimum security classifications"
3. Page 1, line 25 through line 2 on page 2.  
Following: "for" on line 25, page 1  
Strike; remainder of line 25 on page 1 through "status" on line 2 of page 2  
Insert: "inmates after having been assigned as medium II or minimum security for an uninterrupted period of 1 year"
4. Page 2, line 4.  
Following: "school"  
Strike: "inside the walls"

EXHIBIT 4

PROPOSED AMENDMENTS TO HB 10 RECOMMENDED BY SENTENCING SUBCOMMITTEE

1. Title, line 10.

Following: "45-5-625"

Strike: "45-6-101"

Insert: "45-6-102"

2. Title, line 11.

Following: "45-6-204"

Insert: "45-9-101, 45-9-103,"

3. Title, line 12.

Following: "MCA;"

Strike: "AND"

4. Title, line 13.

Following: "MCA"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

5. Page 2, line 12.

Following: "for"

Strike: "persons"

Insert: "a person"

6. Page 2, line 13.

Following: "first"

Strike: "offense"

Insert: "felony or misdemeanor, so long as he has not committed a prior felony,"

Following: "and"

Strike: "who are"

Insert: "is"

7. Page 5, line 15.

Following: "committed"

Insert: ", known by the defendant to exist, and considered by the defendant in the commission of the offense"

8. Page 12, line 8.

Following: "of"

Strike: "20"

Insert: "8"

9. Page 19, line 17.

Following: "for"

Insert: "a"

10. Page 19.

Following: line 19

Insert: "(4) If the victim's lack of consent is based solely upon his incapacity to consent because he was less than 16 years of age, a person convicted of sexual intercourse without consent of such victim shall be imprisoned in the state prison for a term of not less than 2 or more than 20 years."

Renumber: all subsequent subsections

EXHIBIT 4

11. Page 23, line 25 through line 23 on page 24.

Strike: section 28 in its entirety

Renumber: all subsequent sections

12. Page 26.

Following: line 20

Insert: "Section 31. Section 45-9-101 MCA, is amended to read:

"45-9-101. Criminal sale of dangerous drugs. (1) A person commits the offense of criminal sale of dangerous drugs if he sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away or manufactures, prepares, cultivates, compounds, or processes any dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal sale of an opiate, as defined in 50-32-101 (18), shall be imprisoned in the state prison for a term of ~~not less than 2~~ 10 years ~~or more than life~~, except as provided in 46-18-222.

(3) A person convicted of criminal sale of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224, except marijuana or tetrahydrocannabinols, who has a prior conviction for criminal sale of such a drug shall be imprisoned in the state prison for a term of ~~not less than 5~~ 20 years ~~or more than life~~, except as provided in 46-18-222. Upon a third or subsequent conviction for criminal sale of such a drug, he shall be imprisoned in the state prison for a term of ~~not less than 10~~ 40 years ~~or more than life~~, except as provided in 46-18-222. Whenever a conviction under this subsection is for criminal sale of such a drug to a minor or a person who is mentally defective, the sentence shall be increased by 5 years and include the restriction that the defendant be ineligible for parole and participation in the prisoner furlough program while serving his term. A sentence imposed under this section may not be increased by the aggravating circumstances listed in subsections (a) and (c) of [section 5].

(4) A person convicted of criminal sale of dangerous drugs not otherwise provided for in subsection (2) or (3) shall be imprisoned in the state prison for a term of not less than 1 year or more than life.

(5) Practitioners and agents under their supervision acting in the course of a professional practice, as defined by 50-32-101, are exempt from this section."

Section 32. Section 45-9-103, MCA, is amended to read:

"45-9-103. Criminal possession with intent to sell. (1) A person commits the offense of criminal possession with intent to sell if he possesses with intent to sell any dangerous drug as defined in 50-32-101. No person commits the offense of criminal possession with intent to sell marijuana unless he possesses 1 kilogram or more.

(2) A person convicted of criminal possession of an opiate, as defined in 50-32-101 (18), with intent to sell

EXHIBIT 4

shall be imprisoned in the state prison for a term of ~~not-less-than-2-years-or-more-than-20~~ 5 years, except as provided in 46-18-222.

(3) A person convicted of criminal possession with intent to sell not otherwise provided for in subsection (2) shall be imprisoned in the state prison for a term of ~~not-more-than-20~~ 5 years.

(4) Practitioners and agents under their supervision acting in the course of a professional practice as defined by 50-32-101 are exempt from this section." "

Renumber: all subsequent sections

13. Page 27.

Following: line 2

Insert: "Section 35. Effective date. This act is effective January 1, 1982."

EXHIBIT 5

AMENDMENTS TO HB 110 RECOMMENDED BY SENTENCING SUBCOMMITTEE

1. Page 1, line 12 through line 13.  
Following: "of" on line 12  
Strike: remainder of line 12 through "or" on line 13
2. Page 1, line 17.  
Following: "in"  
Insert: "schedule I,"
3. Page 1, line 18.  
Following: "in"  
Insert: "50-32-222,"

MINUTES FROM SUB COMMITTEE/JUDICIARY COMMITTEE MEETING  
HOUSE BILLS 4, 5, 6, 8, 9, 10, 12, 20, 99, 110  
Sentencing Bills  
January 13, 1981

The meeting was called to order at 8:08 am by CHAIRMAN EUDAILLY. Those in attendance were REP IVERSON, REP MATSKO, REP KEEDY, JIM LEAR, Legal Counsel. REP HUENNEKENS was excused.

HOUSE BILL 4. REP KEEDY Made a motion to combine House Bill 4 with House Bill 8.

REP MATSKO seconded that motion.

The motion was carried unanimously.

HOUSE BILL 5. CHAIRMAN EUDAILLY moved to combine House Bill 5 with House Bill 6. Jim Lear, Legal Counsel advised against this motion.

REP IVERSON moved to let House Bill 5 stand alone.

REP KEEDY moved to second that motion.

After lengthy discussion, the committee moved to permit Jim Lear, Legal Counsel to draft the necessary revisions following Page 1, lines 13-15. The suggestion of the committee was to require any agreement to be in writing.

REP KEEDY seconded that motion.

The motion was carried unanimously.

The committee discussed in great lengths Page 2 line 2 concerning the court's hearing the plea.

REP KEEDY moved to amend page 2 line 2 to require the court to hear the agreement before receiving the defendant's plea.

REP IVERSON seconded that motion.

The motion was carried unanimously.

Further discussion on House Bill 5 brought to the committee's attention that there would be extensive amendments to be added to this bill before presenting it on the House Floor.

REP IVERSON moved the sub committee recommend Do Not Pass as amended to the committee on House Bill 5.

REP MATSKO seconded that motion.

The motion was carried unanimously, and further discussion would be open to the committee in executive session.

HOUSE BILL 6. REP KEEDY moved to amend Section 1, Page 1, Line 17 to delete the word "and", and replace it with the word "or". REP KEEDY also moved to amend page 1, line 19, to read "County Attorney or Attorney General".

REP MATSKO seconded that motion.

REP MATSKO seconded that motion.

The Motion was carried unanimously.

HOUSE BILL 6. REP KEEDY moved to have the sub committee reconsider the previous action taken on House Bill 6.

REP IVERSON seconded that motion.

The following amendments were made to House Bill 6:

1. Page 1, line 17  
Following: "jurisdiction"  
Strike: "and"  
Insert: "or"
2. Page 1, line 18  
Following: "imposition"  
Insert: "of sentence, whether or not executed,"
3. Page 1, line 19  
Following: "state, the"  
Insert: "County Attorney or"
4. Page 4, line 3.  
Following: "disposition"  
Strike: "reviewed"
5. Page 4, line 4.  
Following: "defendant"  
Strike: "the prosecuting attorney, and"
6. Page 4, line 5.  
Following: "confined "  
Insert: ", and the prosecuting attorney"

REP KEEDY moved to Do Pass House Bill 6 as amended.

REP MATSKO seconded that motion.

The motion was carried unanimously.

HOUSE BILL 8. REP MATSKO moved Do Pass House Bill 8 as amended to include House Bill 4.

REP IVERSON seconded that motion.

HOUSE BILLS 12, 20, 99. REP IVERSON moved to place House Bills 12, 20, 99 in a holding pattern in committee until further action is taken on House Bill 10.

REP KEEDY seconded that motion.


HOUSE BILL 10. House Bill 10 was discussed and amended at great lengths. The amended portions of this bill are in Exhibit 4 of sub committee report.

No further action has been taken on House Bill 10, until the sub committee considers

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all amendments to that bill.

The meeting was adjourned at 11:00 am.

  
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CHAIRMAN EUDAILY

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MINUTES FROM SUB COMMITTEE/JUCICIARY COMMITTEE MEETING  
HOUSE BILLS 4, 5, 6, 8, 9, 10, 12, 20, 99, 110  
Sentencing Bills  
January 13, 1981

The meeting was called to order at 8:08 am by CHAIRMAN EUDAILLY. Those in attendance were REP IVERSON, REP MATSKO, REP KEEDY, JIM LEAR, Legal Counsel. REP HUENNEKENS was excused.

HOUSE BILL 4. REP KEEDY Made a motion to combine House Bill 4 with House Bill 8.

REP MATSKO seconded that motion.

The motion was carried unanimously.

HOUSE BILL 5. CHAIRMAN EUDAILLY moved to combine House Bill 5 with House Bill 6. Jim Lear, Legal Counsel advised against this motion.

REP IVERSON moved to let House Bill 5 stand alone.

REP KEEDY moved to second that motion.

After lengthy discussion, the committee moved to permit Jim Lear, Legal Counsel to draft the necessary revisions following Page 1, lines 13-15. The suggestion of the committee was to require any agreement to be in writing.

REP KEEDY seconded that motion.

The motion was carried unanimously.

The committee discussed in great lengths Page 2 line 2 concerning the court's hearing the plea.

REP KEEDY moved to amend page 2 line 2 to require the court to hear the agreement before receiving the defendant's plea.

REP IVERSON seconded that motion.

The motion was carried unanimously.

Further discussion on House Bill 5 brought to the committee's attention that there would be extensive amendments to be added to this bill before presenting it on the House Floor.

REP IVERSON moved the sub committee recommend Do Not Pass as amended to the committee on House Bill 5.

REP MATSKO seconded that motion.

The motion was carried unanimously, and further discussion would be open to the committee in executive session.

HOUSE BILL 6. REP KEEDY moved to amend Section 1, Page 1, Line 17 to delete the word "and", and replace it with the word "or". REP KEEDY also moved to amend page 1, line 19, to read "County Attorney or Attorney General".

REP MATSKO seconded that motion.

REP KEEDY moved to amend page 1, line 18 to clarify that "imposition" includes "suspension".

REP IVERSON seconded that motion.

The motion was carried unanimously and given to Jim Lear to draft the necessary revisions.

REP KEEDY moved to amend page 4 lines 4 and 5 to rearrange the sentence structure for clarity.

REP IVERSON seconded that motion.

The motion was carried unanimously and was given to Jim Lear for the necessary revisions.

CHAIRMAN EUDAILLY requested Jim Lear to draft the adopted amendments to House Bill 6 for the executive committee to consider.

HOUSE BILL 9. The hearing on House Bill 9 raised the question of the usage of the word "walls" in pertaining to confinement areas of the prison. It was stated there are no "walls" surrounding any of the prison areas. It was decided that other language would be necessary to insert in place of "walls" to show confinement areas.

CURT CHISHOLM, Deputy Director of Department of Institutions, and DAN RUSSELL, Administrator of Division of Corrections, were asked what terminology could be used in place of "walls." They stated, the term, "perimeter security fence" could be used in reference to the maximum security areas. However, there are some areas that are not security areas that need to be defined.

REP IVERSON moved that the committee delay action on House Bill 9 until the correct language to be used is supplied to Jim Lear by Mr. Chisholm and Mr. Russell.

REP KEEDY seconded that motion.

The motion was carried unanimously, and the amendments were given to Jim Lear for revisions.

HOUSE BILL 12. REP KEEDY noted that this bill is covered by House Bill 10, if House Bill 10 is passed. REP KEEDY moved that the committee hold off action on this bill until a later date.

REP IVERSON seconded this motion.

The motion was carried unanimously.

HOUSE BILL 20. REP KEEDY observed that this bill is covered by House Bill 10, if passed. REP KEEDY moved that the committee delay action on this bill until a later date.

REP IVERSON seconded that motion.

The motion was carried unanimously.

HOUSE BILL 99. REP KEEDY noted that this bill is covered by House Bill 10, if

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passed. REP KEEDY moved that committee delay action on this bill until a later date.

REP IVERSON seconded that motion.

The motion was carried unanimously.

Jim Lear, Legal Counsel, suggested that REP GOULD, and REP DAILLY, sponsors of House Bills 12, 20, and 99, be contacted for discussion with him for their reactions to the proposals on their bills.

The committee unanimously agreed with Jim Lear's suggestion.

HOUSE BILL 10. REP KEEDY moved to amend page 5 line 14, to clarify that if a more susceptible person is the victim unpurposely it is not an aggravating circumstance.

REP MATSKO seconded that motion.

REP KEEDY moved to include criminal sale of dangerous drugs and criminal possession with intent to sell, contained in sections 45-9-101 and 45-9-103 with certain mandatory sentences added.

REP MATSKO seconded that motion.

REP KEEDY moved to amend Page 19, lines 11 and 12 to provide a more leniant sentence if the reason for lack of consent was age as provided in section 45-5-501 (2) (C).

REP IVERSON seconded that motion.

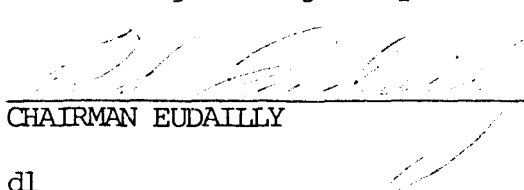
The motion was carried unanimously and given to Jim Lear for revision.

REP MATSKO moved to amend page 2, lines 12 and 13 to clarify that a person who has been convicted for a misdemeanor or felony is not eligible for deferral if he has been convicted of a prior felony.

REP KEEDY seconded that motion.

The motion was carried unanimously and given to Jim Lear for revisions.

The meeting was adjourney at 11:10 am by CHAIRMAN EUDAILLY.

  
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CHAIRMAN EUDAILLY

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EXHIBIT 1  
HB 9

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-30-105, is amended to read:

"53-30-105. Good time allowance. (1) The department of institutions shall adopt rules providing for the granting of good time allowance for inmates employed in any prison work or activity. The good time allowance shall operate as a credit on his sentence as imposed by the court, conditioned upon the inmate's good behavior and compliance with the rules made by the department or the warden. The rules adopted by the department may not grant good time allowance to exceed:

- (a) 10 days per month for inmates assigned to maximum, close, and medium I security classifications.
- (b) 13 days per month for those inmates classified as medium II and minimum security classifications.
- (c) 15 days per month for inmates after having been assigned as medium II or minimum for an uninterrupted period of 1 year.
- (d) 13 days per month for those inmates enrolled in school who successfully complete the course of study or who while so enrolled are released from prison by discharge or parole.